

STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THE HIPSAVER COMPANY, INC.,

Plaintiff,

V.

J.T. POSEY COMPANY,

Defendant.

Civil Action No. 05-10917 PBS

**ASSENTED-TO MOTION OF DEFENDANT J.T. POSEY COMPANY
FOR LEAVE TO FILE UNDER SEAL THE DECLARATION OF CHARLES NAIL IN
OPPOSITION TO HIPSAVER'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Local Rule 7.2, defendant J.T. Posey Company (“Posey”) respectfully moves that The Declaration of Charles Nail filed in Opposition to HipSaver’s Motion for Partial Summary Judgment (which is submitted herewith in a sealed envelope), be filed under seal and impounded until further Order of the Court.

In support thereof, Posey states that this Declaration is submitted by Posey’s controller and the information contained therein has been designated by Posey as “Confidential – Attorneys’ Eyes Only” under the Protective Order in this case (Docket No. 48). In accordance with Local Rule 7.2, Posey requests that this Declaration be impounded until the final resolution of this litigation between the parties, at which time they will be retrieved by Posey.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1(A)(2), counsel for Posey has conferred with the plaintiff's counsel regarding this motion. The plaintiff has no objection to placing this Declaration under seal and has assented to this motion.

WHEREFORE, Posey requests that the Court enter an Order impounding the above-referenced documents.

J.T. POSEY COMPANY

By its attorneys,

/s/ Anthony J. Fitzpatrick
Anthony J. Fitzpatrick (BBO # 564324)
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January 8, 2007

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on January 7, 2007.

I further certify that Exhibit 11 in Support of J.T. Posey Company's Opposition to Plaintiff's Motion For Summary Judgment, which is being filed under seal, will be delivered to the following people in the following manner:

Courtney M. Quish, Esquire
Bromberg & Sunstein
125 Summer St.
Boston, MA 02110

Via Hand-Delivery

Scott K. Dauscher, Esquire
Atkinson, Andelson, Loya, Ruud & Romo
17871 Park Plaza Drive
Suite 200
Cerritos, CA 90703-8597

Via Federal Express Overnight
Delivery

/s/ Anthony J. Fitzpatrick
Anthony J. Fitzpatrick